

Message Text

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ORIGIN EB-08

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APPROVED BY EB/OA:MHSTYLES

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EB/AN:JBMAGNOR

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FM SECSTATE WASHDC

TO AMEMBASSY BUENOS AIRES PRIORITY

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E.O. 11652: N/A

TAGS: EAIR, AR

SUBJECT: CIVAIR: BRANIFF'S PROBLEMS

REF: BUENOS AIRES 1093

1. DEPARTMENT APPRECIATES RECENT EFFORTS BY AMBASSADOR AND EMBASSY TO CONVINCE ARGENTINES TO RETURN TO AVIATION STATUS QUO. WE HOPE THAT GOA EVENTUALLY WILL AGREE TO DEFER BRANIFF QUOTAS DESPITE LARGHI'S NEGATIVE REACTION.

2. ACCORDING TO ITS ESTIMATES, BRANIFF EXPECTS TO REACH QUOTA CEILING AND THUS BE TECHNICALLY IN VIOLATION OF ARGENTINE LAW BY END OF FEBRUARY. WE BELIEVE IT WOULD NOT BE PRUDENT TO DO NOTHING WHILE WE AWAIT OUTCOME OF

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AIR FORCE REVIEW BECAUSE WE MIGHT HAVE NO DEFENSE IF GOA TOOK ENFORCEMENT ACTION AGAINST BRANIFF WHILE WE ARE WAITING FOR RESPONSE FROM GEN AGOSTI. EVEN IF NO ARGENTINE ACTION WERE TAKEN, BRANIFF COULD DECIDE TO STOP CARRYING LA PAZ AND SANTIAGO TRAFFIC ONCE THE QUOTAS ARE REACHED. THIS WOULD RESULT IN OPERATING LOSSES AND COULD BE EXPECTED TO LEAD TO RENEWED INQUIRY FOR PROMPT US

RETALIATORY ACTION.

3. CAB STAFF IS NOW CONSIDERING A DRAFT ORDER UNDER PART 213 OF THE BOARD'S ECONOMIC REGULATIONS. THIS ORDER, IF ADOPTED BY THE MEMBERS OF THE CAB AND UNLESS DISAPPROVED OR STAYED BY THE PRESIDENT, WOULD REQUIRE AEROLINEAS TO SUSPEND 4 OF ITS 6 WEEKLY US FLIGHTS THROUGH LIMA, AND SUSPEND ALL AEROLINEAS' US FLIGHTS THROUGH MEXICO CITY. THE PROPOSAL WOULD THUS HAVE THE EFFECT OF RESTRICTING BY APPROXIMATELY TWO-THIRDS THE VOLUME OF US SERVICE OFFERED BY AEROLINEAS OVER THE WEST COAST OF SOUTH AMERICA. THIS ROUGHLY CORRESPONDS TO THE TWO-THIRDS REDUCTION OF BRANIFF'S TRAFFIC IMPOSED UNDER ARGENTINE QUOTAS OR THE SANTIAGO-BUENOS AIRES AND LA PAZ-BUENOS AIRES SECTORS. CAB STAFF IS ATTEMPTING TO PRESENT PROPOSAL TO BOARD DURING THE WEEK OF FEB 14. IF BOARD APPROVES ORDER, IT WOULD BE SUBMITTED TO PRESIDENT FOR REVIEW. IF ORDER IS NOT STAYED OR DISAPPROVED WITHIN TEN DAYS AFTER SUBMISSION, RESTRICTIONS WOULD ENTER INTO EFFECT THIRTY DAYS THEREAFTER. PART 213 ORDER WOULD NORMALLY BE MADE PUBLIC WHEN SUBMITTED TO PRESIDENT, BUT COULD BE CLASSIFIED UNTIL END 10 DAY PERIOD IF DESIRABLE. ALTERNATIVE OF USING SHOW CAUSE ORDER HAS BEEN RULED OUT BECAUSE AEROLINEAS US PERMIT ALREADY AUTHORIZES USE OF PART 213 RESTRICTION AND BECAUSE SHOW CAUSE WOULD HAVE THE EFFECT OF INVITING LITIGATION ON THE QUESTION OF WHY RESTRICTIONS ALREADY AUTHORIZED IN THE PERMIT SHOULD NOT BE TAKEN. HENCE, SHOW CAUSE WOULD REDUCE SIGNIFICANTLY OUR FLEXIBILITY TO DEAL WITH LIMITED OFFICIAL USE

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ARGENTINES.

4. PROPOSED 213 ACTION SHOULD NOT BE INTERPRETED AS COMPROMISING AMBASSADOR'S COMMITMENT TO GEN AGOSTI REPORTED PARA 4 REFTEL. AT LEAST 40 DAYS MUST ELAPSE FROM TIME OF CAB SUBMISSION OF ORDER TO PRESIDENT UNTIL ACTUAL RESTRICTIONS COULD BE IMPOSED. THE PROPOSED CAB ORDER WOULD ALSO HAVE A SAFEGUARD TO BRING ABOUT THE ORDER'S CANCELLATION AT ANY TIME A POSITIVE ARGENTINE RESPONSE WERE RECEIVED. IT IS ALSO POSSIBLE TO RECOMMEND (DURING 10 DAY REVIEW PERIOD) THAT PRESIDENT STAY ORDER IF EARLY SOLUTION IS LIKELY.

5. IN VIEW OF THE CONTEMPLATED CAB ACTION, EMBASSY'S VIEWS AND RECOMMENDATIONS WOULD BE APPRECIATED SOONEST. HAS EMBASSY ANY COMMENTS AS TO TIMING AND AMOUNT OF ANY FINE OR OTHER ACTION WHICH ARGENTINES COULD TAKE AGAINST BRANIFF FOR EXCEEDING QUOTAS?

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